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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/005,743	12/03/2001	Kurtis Lee Brown	15804	9141
23556	7590	06/23/2004	EXAMINER	
KIMBERLY-CLARK WORLDWIDE, INC. 401 NORTH LAKE STREET NEENAH, WI 54956			SALVATORE, LYNDIA	
			ART UNIT	PAPER NUMBER
			1771	

DATE MAILED: 06/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/005,743

Applicant(s)

BROWN ET AL.

Examiner

Lynda M Salvatore

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 06 April 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 04/12/04
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION*****Response to Arguments***

1. Applicant's remarks filed 04/06/04 regarding the rejections of claims 1-15 have been fully considered and entered. Applicant's remarks regarding the rejections of claims 1-4, 11, and 13-15 rejected under 35 U.S.C. 102(b) as being anticipated by Stokes et al., US 5,858,515 as set forth in section 4 of the last Office Action are found persuasive. Stokes et al., fails to teach single component helically crimped fibers. As such these rejections are hereby withdrawn. Despite this advance, Applicant's remarks are not found persuasive of patentability for reasons set forth herein below.

***Claim Rejections - 35 USC § 102***

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
3. Claims 1-7, 9-11 and 15 stand rejected under 35 U.S.C. 102(b) as being anticipated by Bishop et al., US 5,486,166 as set forth in section 3 of the last Office Action.

Applicant argues that the patent issued to Bishop et al., does not teach single component helically crimped fibers but rather bi-component helically crimped fibers. Applicant further argues that the disclosure of "zig zag or saw tooth" crimp is referring to single polymer fibers and that helically or spirally crimped fibers is referring to multiple polymer fibers. This argument is not persuasive on the grounds that the Examiner maintains that the invention of Bishop et al., encompasses single component helically crimped fibers. Applicant is invited to re-read the passage beginning in column 6, line 11-

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20 and 42-48, which clearly teaches helically crimping fibers made from single component polymers to form a non-woven fabric.

4. Claims 1-11 and 15 stand rejected under 35 U.S.C. 102(e) as being anticipated by Stokes et al., US 6,528,439 as set forth in section 5 of the last Office Action.

Applicant argues that Stokes <sup>et al</sup> fails to teach examples of single component helically crimped fibers. This argument is not found persuasive on the grounds that it is the position of the Examiner that the invention of Stokes et al., clearly encompasses single component helically crimped fibers though not exemplified by examples. The Examiner asserts that working examples of single component helically crimped fibers are not required to form an anticipation rejection. Applicant is invited to re-read the passage beginning in column 5, lines 25-32 and Column 4, 30-35, which clearly teaches helically crimping fibers made from single component polymers to form a non-woven fabric.

5. Claims 1-8, 10,11 and 13-15 stand rejected under 35 U.S.C. 102(e) as being anticipated by Shelly et al., US 2002/0089079 A1 as set forth in section 9 of the last Office Action.

Applicant asserts that the published application to Shelly et al., does not qualify as 35 U.S.C. 102 (e) art since Shelly and Brown are the same inventors of the invention disclosed in the instant application. As such, Applicant asserts that Shelly et al., US 2002/0089079 is not an invention "by another". The Examiner respectfully points out that while Shelly and Brown are common inventors with the relied upon reference, the instant invention includes four inventors, Shelly, Brown, Quinn and Sykes. Accordingly, Shelly et al., US 2002/0089079 is an invention "by another" with respect to inventors Quinn and Sykes.

***Claim Rejections - 35 USC § 103***

6. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
7. Claim 12 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Bishop et al., US 5,486,166, or Stokes et al., US 6,528,439 in view of Akers, US 5,607,550 as set forth in section 7 of the last Office Action.

The Examiner maintains that the prior art of Bishop et al., Stokes et al, teach single component helically crimped fibers and proper motivation exists to form the helically crimped fibrous non-woven structures of Bishop et al., Stokes et al., '515 or '439 with the super-absorbent polymeric fibers of Akers.

***Conclusion***

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lynda M Salvatore whose telephone number is 571-272-1482. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 571-272-1482. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

June 15, 2004

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